

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TUYEN NGUYEN,

Plaintiff,

No. CIV S-04-0655 LKK KJM PS

vs.

DAVID MARTIN,

Defendants.

ORDER

Findings and recommendations were filed October 17, 2005 recommending this action be dismissed for failure to prosecute. Plaintiff has filed a letter indicating plaintiff was under the mistaken impression that the status conference set for October 12, 2005 was vacated due to a bankruptcy filing by defendant. The court's docket does not reflect a notice of bankruptcy nor is there any indication in which court such bankruptcy was filed. In any event, it now appears plaintiff has not abandoned the litigation and wishes to proceed. Absent notice of defendant's filing of bankruptcy, which imposes an automatic stay, this litigation should proceed forward. At the time this action was referred to the undersigned, the discovery and law and motion cut-offs already had passed. Accordingly, dates will be set for pretrial conference and trial.

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1 For the foregoing reasons, IT IS HEREBY ORDERED that:

2 1. The October 17, 2005 findings and recommendations are vacated.

3 2. The pretrial conference is set for February 13, 2006 at 1:30 p.m. before the  
4 Honorable Lawrence K. Karlton. Pretrial statements shall be filed in accordance with Local Rule  
5 16-281.

6 3. Trial of this matter is set for May 16, 2006 at 10:30 a.m. before the Honorable  
7 Lawrence K. Karlton. The parties shall file trial briefs in accordance with Local Rule 16-285.

8 DATED: October 25, 2005.

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11 UNITED STATES MAGISTRATE JUDGE  
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